

Minutes

Juvenile Benchbook Committee

February 26, 2015

10:00 a.m. -1:00 p.m.

Members present: Kirk Carpenter, chair; Sally Berish, Diana Burleson, Faith Graham, Dan Kelly, Karen Love, Graham Polando, Todd Ruetz, Harry Siamas, Kaarin Lueck, Kelsey Hanlon

Staff: Matthew Hagenbush

Guests: Lisa Thompson, Court Technology

1. The minutes from October 23, 2015 were approved.
2. Dual Status – Lisa Thompson reviewed the proposed additions to the PI with the committee. After discussion, the proposed PI additions were approved as presented. Discussion was held about the timetable and details about implementation of the project in the dual status pilot counties. New versions of the previously discussed dual status forms were reviewed and discussed. An addition was proposed to the Referral to Dual Status Assessment Team form that allowed the Court to make specific findings as to why a team was or was not referred in that particular case. With that addition, the committee approved all forms.
3. DCS payment for unlicensed relative placements – This issue was tabled pending the availability of a DCS representative to discuss the necessity of a benchbook order for that process.
4. The committee concluded that an acceptable form for initial hearing dialogue on TPR already exists, and therefore this item was dropped.
5. The committee reviewed a proposed order on emancipation of a child from Magistrate Heather Mollo. The committee noted the proposed order was faithful to the corresponding statute, and proposed the addition of a line in the order referencing that statute. With that addition, the committee approved the adoption of the order on emancipation.
6. Language noting the parent or child's right to appeal in dispositional orders was proposed. The committee discussed that language and the relative right to counsel in those cases. The committee directed Matt Hagenbush to place this language in draft orders for the committee's review.
7. Open discussion topics included available placements for delinquency and CHINS cases with mental health issues and human trafficking experiences in committee members' counties.

8. Next Meeting: The March meeting was scheduled in error on a state holiday. The next meeting is tentatively suggested for lunch during the Spring Judicial College, and will be confirmed later.

2016 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

January 22, 2016

February 26, 2016

March ??, 2016

May/ June: Joint meeting with JJIC, ICJFCJ

August 26, 2016

October 28, 2016

Approved: 8/26/2016

Minutes
Juvenile Benchbook Committee
August 26, 2016
10:00 a.m. -1:00 p.m.

Members present: Kirk Carpenter, chair; Sally Berish, Diana Burleson, Faith Graham, Dan Kelly, Karen Love, Graham Polando, Todd Ruetz, Harry Siamas, Kaarin Lueck, Kelsey Hanlon, Teresa Hollandsworth (for Thomas Stefaniak)

Staff: Matthew Hagenbush

1. The minutes from February 26, 2016 were approved.
2. Detention orders under Ind. Code 31-37-5-5/SEA 160 – Matthew Hagenbush provided materials collected from counties around the state implementing the new hearing required to occur 48 hours after release of a juvenile delinquent with conditions by the intake officer. Matthew Hagenbush thanked Judge Darrin Dolehanty, Wayne County Superior Court #3, for collecting these materials and providing them to the committee, along with a detailed set of his own orders and dialogue. After reviewing the orders provided, the committee agreed to modify the current benchbook Order on Detention Hearing with language to handle a hearing on a release with conditions. Judge Graham and Magistrate Ruetz volunteered to work on this project and report back to the committee with their results.

The committee also discussed the construction of the statute, which does not seem to require a probable cause finding. The committee was uncomfortable with that reading and opted to include a probable cause finding, whether or not such a finding is required. The committee reviewed the nature of the state's action in these matters in the context of Title IV-E findings, upon which federal Title IV-E funding is contingent. The committee agreed that the best practice was to include these findings wherever possible to avoid any issues with federal funds. These matters will be reflected in the modified order.

3. New ICWA Regulations and benchcard development – Judge Hanlon and Magistrate Lueck talked about the new Indiana Child Welfare Act regulations. They proposed a new ICWA benchcard be developed and added to the benchbook to assist juvenile court judges with handling the new requirements. Included in the changes is an affirmative responsibility for the trial court to ask the parties at the first court hearing commenced in a child welfare proceeding whether or not there is reason to believe the child in question is an Indian child. After considering the potential changes, the committee agreed to assign Judge Hanlon and Magistrate Lueck to develop a benchcard to assist trial courts with their ICWA responsibilities.
4. Appeal language in dispositional orders – Matthew Hagenbush presented the committee with right to appeal language added to the delinquency and CHINS benchbook dispositional orders as well as the order on involuntary termination from the TPR benchbook. The committee reviewed the orders and approved the added language, as well

as the forms themselves for modification to their respective benchbooks. This language, in addition to oral reminders from the bench, should serve to remind the child and the child's parents of the right to appeal in each of these cases, as well as the right to be represented by counsel in that appeal.

5. Revisions to waiver section of Juvenile Delinquency Benchbook – The committee agreed after discussion that revision of the waiver section of the Juvenile Delinquency Benchbook is in acute need of an update. Magistrate Berish and Magistrate Kelly agreed to work on that section and update the committee on their efforts at the next meeting.
6. Post-TPR CHINS hearing benchcard – Matthew Hagenbush relayed work from the Child Welfare Improvement Committee, which is currently working on a project to prevent legal orphans from aging out of the child welfare system without achieving permanency. As part of that project, CWIC asked if the Juvenile Benchbook Committee would be willing to review a post-TPR hearing benchcard, and if acceptable, to add it to the CHINS benchbook. The benchcard is intended to provide trial court judges with appropriate questions to ask in permanency and review hearings to keep the case on track and prevent complacency from the parties that might result in delayed permanency for the child. The committee agreed to review the benchcard and propose edits for its eventual inclusion into the benchbook.
7. Open discussion topics included resolution of adoption cases and the recent decision in *In re J.B. & L.B.*, 55 N.E.3d 903 (Ind. Ct. App. 2016).
8. Next Meeting: October 28, 2016

2016-17 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

October 28, 2016
January 27, 2017
February 24, 2017
March 24, 2017
April 28, 2017
July 28, 2017

Approved: October 28, 2016

Minutes

Juvenile Benchbook Committee

October 28, 2016

10:00 a.m. -1:00 p.m.

Members present: Faith Graham, chair, Amanda Yonally, Kaarin Lueck, Kelsey Hanlon, David Cates, John Plummer III, Graham Polando, Dan Kelly, Sally Berish, Karen Love, Diana Burleson

Staff: Matthew Hagenbush, Angela Reid-Brown

Guests: Wade Hornbacher, Chief Counsel, Indiana Department of Child Services (DCS)

1. The minutes from August 26, 2016 were approved.
2. Post-TPR hearings – DCS adoption process – Wade Hornbacher spoke to the committee about the DCS adoption process. He outlined the steps of the process, including the internal process of determining adoption subsidy eligibility and subsidy negotiation. A handout was provided to the committee which listed the steps of that process and the different parties within DCS to whom information must be provided. Highlights of the discussion included that eligibility determinations are usually completed within 60 days, Family Case Managers can find out why a background check returns as Disqualified, and children younger than 2 do not qualify for the federal Adoption Assistance Program subsidies. 90% of adoption subsidy negotiation are completed within 45 days. If DCS gets to 60 days without an agreement, they will send a final offer letter. From there, pre-adoptive parents may appeal to an Administrative Law Judge. For those who do not qualify for federal adoption subsidies, State Adoption Subsidy (SAS) is now funded and available. The process for negotiating SAS is the same as the AAP process. The committee thanked Wade Hornbacher for his time and helpful discussion of the process.
3. Post-TPR Benchcard – Judge Hanlon, Mag. Polando, and Mag. Yonally were assigned to work on the draft of the Post-TPR Benchcard provided by the Child Welfare Improvement Committee (CWIC). They will finish that draft by November 21, 2016. After they complete their edits, Matt Hagenbush will circulate the draft to the committee for approval. The approved draft will be returned to CWIC for further discussion and potential additions for the child and guardians ad litem.
4. New Indian Child Welfare Act (ICWA) Regulations and benchcard development – The ICWA materials are being worked on by Judge Hanlon and Mag. Lueck. The new ICWA regulations take effect December 12, 2016. Among the most pressing changes is the affirmative obligation for trial courts to ask if a child in a child welfare or juvenile status offense case is an Indian child for purposes of ICWA. Judge Hanlon and Mag. Lueck will be modifying the initial hearing orders in both case types to contain findings reflecting this change.

5. SB 160 – release with conditions by intake officer in delinquency cases – Judge Graham and Mag. Kelly circulated a draft of the initial hearing order based upon recent legislative changes made by SB 160, which now permits the intake officer in a juvenile delinquency matter to release the child with specific conditions of release, subject to review by a judicial officer within 48 hours of that release. The committee reviewed the draft and proposed some edits.
6. Administrative Rule 9 and dual status cases – The committee discussed potential implications of Administrative Rule 9 on dual status cases based upon public access to many juvenile delinquency cases made possible by Ind. Code 31-39-2-8. The committee agreed that disclosure of CHINS information in these cases if they are determined to be dual status cases is neither intended nor desirable. However, the committee decided not to issue its own Administrative Rule 9 form or make other changes at this time.
7. Revisions to waiver section of Juvenile Delinquency Benchbook – Updates from Mag. Berish and Mag. Kelly continue on the waiver chapter of the delinquency benchbook, but none of that work was ready for the committee's review. Thus, this item will be placed on January's agenda for further updates.
8. Open discussion topics included discussion of probation fees in Informal Adjustment cases.
9. Next Meeting: January 27, 2017

2016-17 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

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April 28, 2017
July 28, 2017

Approved: January 27, 2017